United Nations CMW/C/DZA/Q/2/Add.1

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Distr.: General
11 January 2018
English
Original: French
English, French and Spanish only

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
Twenty-eighth session
9–20 April 2018
Item 7 of the provisional agenda
Consideration of reports submitted by States parties under article 73 of the Convention

List of issues in relation to the second periodic report of Algeria

Addendum

Replies of Algeria to the list of issues*

[Date received: 14 December 2017]

* The present document is being issued without formal editing.

GE.18-00460 (E) 060218 070218
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I. General information

Reply to question 1

1. The Government is reviewing the Labour Code in consultation with all social partners. The preliminary bill on the Labour Code largely reiterates the fundamental rights set out in international labour standards applicable to national and foreign workers. It is intended to consolidate the rights and freedoms guaranteed by the Constitution in relation to the right to work, the dignity of workers, social protection and the organization of labour relations on the basis of principles that foster social dialogue, consultation and collective bargaining.

2. In the part of the bill on employment conditions for foreign workers, the principle of protecting the foreign labour force and establishing the responsibilities and obligations of foreign workers and their employers is reaffirmed. It provides for equal treatment of foreign and national workers, including with regard to employment conditions, remuneration and social protection.

3. The bill introduces the right to appeal a decision to refuse or withdraw a work permit and the right to information on the legislation in force in Algeria and simplifies the conditions for travel, reception and repatriation concerning foreign workers.

4. Furthermore, it adapts the legal framework governing employment conditions for foreign nationals in Algeria in order to ensure a better grasp of the procedures for regulating, controlling and managing the flow of foreign workers into the country and to align it with the reforms introduced on conditions for the entry, stay and movement of foreigners in Algeria. The bill also introduces new provisions for the benefit of foreign workers on secondment for a specific assignment.

5. Other provisions have been included to simplify and make more flexible the procedures for certain categories of foreign workers resident in Algeria, such as foreign nationals married to Algerian citizens, foreigners who have lived uninterruptedly in Algeria and have had a resident's card for 10 years or more, and refugees and stateless persons recognized in accordance with the applicable laws and regulations in Algeria; it is provided that the issuance of work permits shall be automatic and may be valid for a renewable period of up to five years.

Reply to question 2

6. In view of the dense influx of migrants into Algeria in recent years, the Government has taken the necessary steps to improve the collection of data and statistics on these flows, including on foreign workers in an irregular situation. These data are collected and used to develop appropriate policy measures.

7. Exploitation of the data enables the authorities to track the most important trends in labour migration, including the impact of migrants on labour market numbers, their skills and their movement patterns.

8. In this respect, efforts have been made to strengthen the migrant worker information system.

9. An intersectoral committee on migration issues has been set up, under the aegis of the Ministry of Foreign Affairs, to strengthen relations with the various ministerial departments through regular contact, participation in activities and the drafting of specific reports on institutional activities related to migration. This enables the Ministry of Labour, for example, to exchange statistical information and track the most important trends in terms of labour migration.

10. The Government has taken measures to strengthen tools for the collection and analysis of data on migrant workers in an irregular situation residing or in transit in Algeria.

11. Programmes are also under way to build the capacity of the National Statistics Office to carry out surveys on labour migration (for example, preparing drafts and questionnaires).

Foreign workers in an irregular situation

12. In 2016, some 3,926 foreign workers were found not to have a work permit. These irregularities led to 4,717 disciplinary proceedings being instituted, as follows: 4,112 proceedings against the foreign workers concerned; 605 proceedings against the employing organizations.

13. Most foreign workers in an irregular situation are Chinese (46.02 per cent), Turkish (10.12 per cent) or from sub-Saharan Africa (9.22 per cent).

Reply to question 3

14. As part of the process of legislative updates, the Government is bringing its legal arsenal in line with the international conventions ratified by Algeria. Likewise, it is considering the possibility of ratifying new treaties and potentially recognizing the competence of certain international and/or regional bodies to receive and examine communications lodged by Algerian citizens or foreign nationals resident in the country who consider that their rights have not been respected, after they have exhausted domestic legal remedies.

Reply to question 4

15. There are no private recruitment agencies in Algeria that organize the overseas employment of Algerian migrant workers.

16. Labour regulations in force prohibit any for-profit operation aimed solely at providing labour, including duly accredited private bodies that are not authorized to organize the placement of foreign workers and the provision of labour for the profit of a third party (article 2 of Executive Decree No. 07-123 of 24 April 2007 establishing the terms and conditions for granting and revoking licences for private-sector job placement agencies and guidelines for the provision of public-sector job placement services). Responsibility for managing the employment of migrant workers lies with the *wilaya* employment office, which provides services free of charge.

17. In accordance with the provisions of Executive Decree No. 02-50 of 21 January 2002 defining the rules for the organization and operation of the *wilaya* employment offices, the tasks assigned to the *wilaya* employment office primarily involve developing and implementing measures to encourage, promote and boost employment.

II. Information in relation to each of the articles of the Convention

A. General principles

Reply to question 5

18. There is no discrimination against migrant workers in Algeria, irrespective of whether their situation is regular or irregular. The Criminal Code has been amended and supplemented by Act No. 14-01 of 4 February 2014, which introduced new provisions prohibiting discrimination of any kind, regardless of the target. Article 295 bis 1 of this Act stipulates that perpetrators of the offence of "discrimination" face imprisonment and a fine.

19. The same penalties apply to any person who publicly incites hatred or discrimination against a person or a group of persons on the basis of their racial or ethnic origin, or who organizes, disseminates, encourages or carries out propaganda activities for this purpose. Similarly, any legal person that commits an act of discrimination incurs a fine, without prejudice to any penalties applicable to its directors.

20. Migrant workers have the same right as nationals to file complaints with the competent judicial and administrative authorities and to be assisted by a person of their choosing, including in disputes with their employer, in order to ensure that they are able to assert their rights in accordance with legal procedures in force.

Reply to question 6

21. Migrant workers and members of their families, including those who are undocumented or in an irregular situation, may appeal administrative decisions, particularly expulsion orders issued against them in summary judicial proceedings, in accordance with article 31 (3) of Act No. 08-11 of 25 June 2008 on the conditions for the entry of foreign nationals to Algeria and their movement and stay in the country.

22. Grievances may be raised by filing a complaint with the criminal investigation police at a police station or gendarmerie, or with an official of the Public Prosecution Service, or by suing for damages in criminal proceedings with an investigating judge.

23. Whichever of the three mechanisms is used, after a preliminary investigation or judicial inquiry, a decision is handed down by the court concerned, which must address both the criminal charges brought by the prosecution against the offender and the civil action for damages brought by the victim.

24. Furthermore, labour disputes are handled using a specific procedure established under Act No. 90-04 of 6 February 1990, which provides for an initial attempt at mediation, firstly through the internal mediation services of the company concerned, whose role is to help prevent labour disputes, and secondly through the external mediation bureaux, before the dispute can be referred to the social affairs court.

25. The number of complaints involving migrant workers examined by judicial bodies is as follows:

Judicial bodies — tribunals or courts	*2016*	*2017 as at 31/10/2017*
Number of cases registered with the social affairs divisions in which one of the parties is a foreign national	42	104
Number of cases investigated by the social affairs divisions in which one of the parties is a foreign national	39	51
Number of cases registered with the social affairs divisions in which the plaintiff is a foreign national	40	73
Number of cases investigated by the social affairs divisions in which the plaintiff is a foreign national	28	66

26. Furthermore, Act No. 09-02 of 25 February 2009, amending and supplementing Ordinance No. 71-57 of 5 August 1971, on legal assistance extends the right to legal assistance (i.e. the assistance of a lawyer and defrayal of legal costs) to "all foreign nationals lawfully present in the national territory who have insufficient resources to assert their legal rights". It also provides that: "Legal assistance shall be granted for all cases brought before the ordinary and administrative courts and for all non-adversarial and protective proceedings."

27. This legal assistance may be granted on an exceptional basis to persons who do not satisfy the required criteria should their situations appear to merit special attention due to the subject of the dispute brought before the ordinary or administrative court or if the aim of the proceedings is to obtain a non-adversarial or protective order.

Replies to questions 7 and 8

28. In Algeria, all foreign nationals have the right to the protection of the law regardless of their status. Similarly, the Constitution guarantees protection for all migrant workers and members of their families lawfully present in Algeria. It also prescribes that violations of

the rights and freedoms and attacks on the physical or psychological well-being of human beings are punishable by law.

29. Thus, migrants are protected by law against violations of their physical or psychological well-being, on the same basis as nationals, without exception or reservation and without discrimination on grounds of sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status. Migrants who are victims of crime may institute criminal indemnification proceedings and claim compensation for the injury they have suffered.

30. Moreover, the protection of the law is extended to migrants accused of committing offences under criminal law (whether the offence is minor or serious). Migrants in such circumstances have the right to a fair trial in accordance with constitutional and legal guarantees and in line with ratified international conventions. This protection applies from the period of police custody through to the period of detention. The law establishes mechanisms to prevent abuse and guarantee the humane treatment of migrants accused of committing offences throughout this period, including their right to contact the diplomatic and/or consular representatives of their country of origin and their right to a medical examination on leaving police custody.

31. By law, foreign nationals in Algerian territory, even those in an irregular situation, who have suffered physical or psychological harm may contact the police services with jurisdiction in their area to lodge a complaint against any person responsible for such acts; however, once the legal proceedings have concluded with a court decision, the administrative proceedings continue in respect of migrants in an irregular situation in accordance with the regulations governing the stay and work of foreign nationals in Algeria.

B. Part III of the Convention

Reply to question 9 (article 8)

32. Pursuant to Article 175 bis 1 (2) of Act No. 09-01 of 25 February 2009, any attempt, by any person, regardless of their current or future status, to leave the national territory via a crossing point other than an official border crossing constitutes a criminal offence.

33. The smuggling of migrants (irregular emigration) is covered by article 303 bis 30 of the Criminal Code, which includes a definition in line with the definition given in the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime. Custodial sentences and fines are established for persons who commit offences of this kind and lengthy terms of imprisonment apply when the offence is committed in any one of the aggravating circumstances provided for in article 303 bis 32 of the Criminal Code.

34. Since the publication of Act No. 09-01 of 25 February 2009, amending and supplementing ordinance No. 66-156 of 8 June 1966 on the Criminal Code (Official Gazette No. 15 of 8 March 2009), introducing three new sections, the first of which is entitled "Trafficking in Persons" (articles 303 bis 4 to 303 bis 15), no cases of trafficking involving foreign nationals have been registered by the police.

35. As a result of efforts by the police in this area, seven cases of trafficking have been registered, of which one was later reclassified as procurement during the investigation, resulting in a prosecution and conviction in 2014.

36. Mindful of the need to preserve human dignity and protect the right to life in all circumstances, the Algerian legislature is seeking, through this provision, to deter persons considering this form of illegal migration and prevent them from becoming entangled in the intricacies of another more serious and harmful form of criminal activity, i.e. trafficking in human beings.

37. Furthermore, the Government of Algeria has adopted a holistic approach under which addressing the root causes of irregular migration is prioritized.

38. Any penalties that may be imposed on Algerian citizens who wish to migrate abroad are applicable not because they have left in search of work but because they have tried to leave through an unofficial border crossing.

Reply to question 10 (article 10)

39. The State party recalls that migrants receive the same protection of their rights as citizens, even when they are in an irregular situation.

40. Law enforcement officials who violate the physical integrity of migrants face disciplinary and criminal sanctions if the victim lodges a complaint that is investigated.

41. Contrary to what may be alleged, the Code of Criminal Procedure provides for the automatic right to a medical examination when an individual is arrested, both before and after questioning. If there are doubts as to the behaviour of the law enforcement officials involved, an investigation is ordered and, if substantiated, the perpetrators are sanctioned.

42. With regard to instances of violence against or humiliation or exploitation of migrant workers, no cases of forced labour or service, threats, force or other forms of coercion have been registered by the police.

Reply to question 11 (article 13)

43. The State party is not aware of any intimidatory measures against, or arbitrary arrests or detention of, citizens involved in the defence of migrants' rights. Furthermore, to date, Algeria has not received any communications/complaints from the special human rights mechanisms in this regard. The State party would be grateful to be informed of the allegations in question so that it can assess whether or not they are well founded.

Reply to question 12 (article 15)

44. The Government of Algeria responded immediately upon receiving the draft observations and recommendations and provided the clarifications requested by the Committee on this subject.

45. The final text of the concluding observations and recommendations adopted by the Committee did not take account of certain items of information provided by the Government of Algeria at the time.

46. An official communication was sent to the Chair of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families to provide the necessary clarifications. In this letter, the Government rejected paragraphs 24, 25, 34 and 35 of the document bearing the symbol CMW/C/DZA/CO/1 as inappropriate and inadmissible.

Reply to question 13 (articles 16, 17 and 18)

47. There are no detention facilities for migrants in Algeria. The only centres are those that accommodate migrants in an irregular situation who have been identified by their consular authorities and are being escorted to the border with the agreement of their respective Governments and the technical assistance of the International Organization for Migration and the Office of the United Nations High Commissioner for Refugees (UNHCR).

48. Before being repatriated, migrants undergo a medical examination and receive a return pack containing food rations and other items. All of these operations are conducted in the presence of the press and neutral observers, and are paid for by the Algerian Government.

49. Since December 2014, almost 20,000 individuals of different nationalities have been returned to their consular authorities. Persons under the protection of UNHCR are exempt from repatriation on the grounds of disturbances or war in their home country, as are pregnant women and unaccompanied minors.

Reply to question 15 (article 22)

50. These are not collective expulsions but voluntary repatriation operations conducted by the Algerian authorities with the assistance of the International Organization for Migration in the context of a bilateral cooperation agreement concluded in 2014 with the Government of Niger, in compliance with the principle of human dignity and regular procedures.

51. In this regard, Algeria favours voluntary return as a solution for the repatriation of migrants in an irregular situation.

52. The largest operation of this kind involved citizens of Niger. Other repatriation operations involving a significant number of citizens of Niger in an irregular and vulnerable situation were carried out between December 2014 and the end of 2017.

53. Based on an agreement with the Government of Niger, these operations resulted in the repatriation of more than 20,000 individuals, including women and children, who had been brought to Algeria as part of organized begging networks.

54. The operation to repatriate 989 sub-Saharan Africans was a measure of last resort carried out in early December 2016 by the competent authorities following repeated breaches of public order and serious violations committed by migrants in an irregular situation in several parts of the country. The majority of the persons concerned — citizens of 14 different African countries — who were supposed to be released following identification expressed the wish to voluntarily return to their countries of origin by transiting through Niger.

Reply to question 16

55. Pursuant to article 31 of Act No. 08-11 of 25 June 2008, migrant workers who are the subject of an expulsion order have certain avenues of redress available to them. This article gives migrants a five-day window during which to appeal to an interim relief judge and provides for the suspension of the expulsion proceedings while the appeal is in progress. Migrant workers who do not initiate appeal proceedings but remain in the country and are subsequently rearrested are immediately returned in application of article 30 of the aforementioned 2008 Act.

56. Migrant workers in an irregular situation may also be deported by order of the *wali* with jurisdiction in their area (article 36 of Act No. 08-11). Workers may appeal to the Council of State for annulment of the expulsion decision (article 901 of the Code of Civil and Administrative Procedure) or may apply to the interim relief judge to have the decision's execution suspended.

57. Social and humanitarian assistance organizations may be designated to advise, support and assist migrant workers and members of their families facing expulsion.

Reply to question 17 (article 23)

58. The Vienna Convention on Consular Relations, ratified by Algeria in 1964, provides for mechanisms to facilitate communication between the consular officers of the sending State and the competent local and central authorities in the receiving State which, under this Convention and in application of bilateral consular treaties, have an obligation to report to the consular authorities of the sending State the arrest or detention of any kind of one of its citizens (policy custody, pretrial detention) as well as any convictions and prison sentences. These consular officers have the right to contact their citizens wherever they may be.

59. In the absence of a bilateral consular agreement, communication and contact between foreign nationals and the diplomatic representatives of their State of origin must be channelled through the Ministry of Foreign Affairs. The same applies to contact with the local and central authorities of the host country.

60. The new bill on foreign nationals guarantees protection for the rights of foreign nationals against expulsion measures or violations of their fundamental rights in accordance with the Vienna Convention on Consular Relations. It also provides that any foreign

national who is subject to a deportation order may contact his or her diplomatic or consular representative.

61. Consular agents are trained on how to receive, listen to and support the national community abroad. Each embassy consular service or consulate has a social service to listen to and advise citizens.

Reply to question 18 (article 27)

62. The Constitution, Act No. 81-10 on the recruitment and conditions of employment of foreign workers, and Decree No. 86-276 enshrine the principle of equal treatment between Algerian and foreign workers.

63. Fundamental labour rights are guaranteed for foreign workers, who enjoy the following rights: the right to join trade unions, the right to collective bargaining, the right to worker participation, the right to social security and a pension, the right to occupational health and safety, the right to rest, the right to participate in workplace dispute prevention and resolution, and the right to strike.

64. Foreign nationals working in State agencies and institutions enjoy all rights, including the right to join the social security scheme and to receive certain benefits granted to foreign workers, such as the reimbursement of travel costs. Under the customs duty system, foreign workers are granted temporary, duty-free import of their personal belongings and vehicles, provided that these are re-exported at the end of their posting.

65. Subject to the conditions laid down in the bilateral and multilateral agreements signed by Algeria, migrant workers are affiliated to the social security scheme (Act No. 83-14 of 2 July 1983) irrespective of their nationality, the amount or nature of their remuneration or the form, nature or validity of their work contract. The social insurance scheme for employees covers illness, incapacity, death, maternity, occupational accidents and diseases, retirement, unemployment and early retirement.

66. In the event of individual or mass dismissal, migrant workers have the same rights and entitlements as Algerian workers by law and under collective labour agreements, in particular with regard to notice periods, statutory or agreement-based severance allowances and the compensation to which they may be entitled in cases of wrongful termination of their contract of employment.

67. Foreign nationals who are employed without a work permit are not deprived of their rights, in application of the principle of equal treatment; the general provisions of labour law remain applicable to them. (Act No. 90-04 of 6 February 1990).

68. The majority of migrant workers with a work permit (in a regular situation) mentioned in the periodic report of Algeria are registered with the social security system (Act No. 83-14 of 2 July 1983, amended and supplemented, on the obligations of persons covered by the social security system), regardless of their nationality, the amount or nature of their remuneration, or the form, nature or validity of their employment contract, with the exception of migrant workers on secondment for a short period or covered by a foreign social security regime by virtue of a social security treaty between Algeria and their country of origin (this category represents 2 per cent of the total foreign workforce).

69. The National Social Insurance Fund for Employees covers illness, incapacity, death, maternity, occupational accidents and diseases, retirement, unemployment and early retirement.

Reply to question 19 (article 28)

70. The right to health, as a fundamental human right, is enshrined in article 24 of the Constitution.

71. The national health system is built on the principle of equitable access, without distinction between individuals and families, to all health-care facilities at which they may receive appropriate emergency, preventive and curative care, thus guaranteeing equal treatment for all workers, including migrants and members of their families, regardless of their residence or work status.

72. According to a recent survey conducted in 2017 in the region of Tamanrasset, 37 per cent of health-care services provided at the *wilaya* level were for the benefit of the migrant population, made up of sub-Saharan Africans.

73. Under no circumstances will a migrant who presents for health-care services be arrested or reported. To the extent possible, migrants are requested to provide their identity information for the purpose of health-care registration.

Reply to question 20 (article 30)

74. Article 53 of the Constitution provides that: "The right to education shall be guaranteed. Education is free under the conditions established by law. Basic education is compulsory. The State shall be responsible for the organization of the education system and ensuring equal access to education and vocational training." The laws governing the schooling of children of migrant workers are the same as those applicable to Algerian children. The Government of Algeria guarantees the right to education for all Algerians and for all children of foreign nationals resident in Algeria.

75. This right is ensured in practice by the provision of nine years of universal basic education and the guarantee of equal opportunities with regard to conditions of schooling and the continuation of studies after basic education.

76. Education is compulsory for all girls and boys aged between 6 and 16. Education is free of charge, at all levels, in all establishments in the public education sector.

Statistical data on the enrolment of migrant children in Algerian State schools (2014–2015)

Education level	*Syrian students*	*Saharan students*	*Malian students*	*Tunisian students*	*Other nationalities*
Primary	1 099	No data	66	61	361
Middle	373	978	17	31	268
Secondary	231	1 949	18	25	107
Total	**1 703**	**2 927**	**101**	**117**	**736**

* Nigerien, Palestinian, Portuguese, Egyptian, Chadian, Italian, Russian, Libyan, Moroccan, Jordanian, Chinese, Senegalese, Angolan, Ivorian, Lebanese, Guinean, Congolese, Pakistani, Cameroonian, Turkish, Spanish, Brazilian, Saudi Arabian, German, Iraqi, Sudanese, Polish, Greek, French, Indonesian, Vietnamese, Korean, Ukrainian, Filipino.

Statistical data on the education of foreign students (2016–2017)

Education level	*Total*
Primary	3 253
Middle	2 106
Secondary	1 816
Total	**7 175**

Statistical data on the number of foreign students in Algerian universities since 2010

Students Academic year	*2010–11*	*2011–12*	*2012–13*	*2013–14*
Foreign students	8 053	7 858	9 444	8 748

77. Migrant children enrolled in State schools are entitled to, and receive, the same treatment as Algerian children.

78. Foreign students on scholarships enjoy the same rights as Algerian students without discrimination (Executive Decree No. 10-137 of 13 May 2010), namely, the right to free

education on a scholarship, accommodation in university residences, access to canteens, health care and social security that covers health-care costs.

79. In the State of employment, members of the families of migrant workers enjoy equality of treatment with nationals of the State in terms of access to vocational guidance and training institutions and services, provided that requirements for participation are met.

80. Family members of migrant workers have access to guidance and assessment services. The minister responsible for vocational training and education establishes conditions and guidelines for the different training options, based on the wishes of applicants and the capacities of training establishments.

Reply to question 21 (article 33)

81. Information is provided to migrant workers by the competent authorities. Migrant workers receive support and assistance from the consular representatives of their country of origin. They are also entitled, on an equal footing with Algerian workers, to receive assistance from the labour authorities in acquainting themselves with local employment conditions and their rights in terms of labour relations and social security.

82. Public officials who work or have contact with migrant workers receive special training to equip them to deal with the specific needs of such workers.

83. Human rights training courses are organized for social workers who work with migrants, particularly social assistance workers and those working in outreach and counselling centres or in social and humanitarian organizations, in order to improve the quality of care and support available to the migrant worker community. The National Institute of Labour is investing in capacity-building activities that target labour inspectors in particular.

84. Labour inspectors have an important role in protecting migrant workers' rights and ensuring compliance with legal and regulatory provisions related to health and safety in the workplace and the prevention of abusive practices at work. By providing advice and information and exercising oversight functions, they help to ensure effective implementation of labour legislation.

85. Information and advice is provided to migrant workers on a daily basis, in person, by telephone, in response to written inquiries and following inspection visits.

86. By way of example, in 2013, the Labour Inspectorate provided advice and information on current labour laws and regulations to 147 foreign workers.

87. The basis for these activities is set forth in article 2 (2) of Act No. 90-03 of 6 February 1990, which establishes that the Labour Inspectorate is responsible for "providing employers and employees with information and advice about their rights and obligations and the most appropriate way to apply legal, regulatory and treaty provisions and arbitration decisions".

88. The labour authorities provide migrant workers and employers wishing to recruit foreign workers with appropriate information about the temporary residence of foreign nationals, the procedure for obtaining work permits, the termination of contracts of employment, the skills sought, conditions of employment, remuneration, social security, cash transfers and the social security withholdings applied to wages.

C. Part IV of the Convention

Reply to question 22 (articles 43, 54 and 55)

89. Migrant workers and members of their families in a regular situation have access on an equal footing to vocational training, social welfare support, protection from occupational hazards and advisory services. Algerian legislation on vocational training and education, including Act No. 08-07 of 23 February 2008, does not in any way prohibit migrant workers and members of their families in a regular situation from enrolling in training institutions.

90. Action taken to ensure equality of treatment might include efforts to improve access to social assistance, health-care services, nurseries and kindergartens, grass-roots sports facilities and recreational and sporting activities, and initiatives to support the development of popular tourism, to facilitate the creation of consumer cooperatives and housing associations and to promote social housing schemes for employees. Social welfare funds are financed by contributions from the employing organization equivalent to 3 per cent of the gross payroll.

91. Occupational health legislation establishes the right to health at work. The provisions of Act No. 88-07 of 26 January 1988 apply to all workers without discrimination. Employers are responsible for preventing occupational hazards, for protecting workers, including migrant workers, against the risk of occupational accidents and illnesses and any possible damage to their health, and for identifying and monitoring any factors in the workplace that might adversely affect their health.

(a) Protection against dismissal, unemployment benefits and access to alternative employment

92. Algerian law enshrines the principle of equality of treatment between national and foreign workers in relation to protection against dismissal in the above-mentioned Act No. 90-11.

93. With regard to access to alternative employment, the surrender of a work permit means that a foreign worker must cease all paid activity. If another employer then wishes to hire the worker, the work permit must be renewed in accordance with the conditions set out in article 12 of Decree No. 82-510 of 25 December 1982 establishing procedures for the issuance of work permits and temporary work authorizations.

94. The aforementioned Act No. 90-11 sets out the terms and conditions under which employees may be made redundant on economic grounds. Employers who satisfy the conditions must use all possible means to minimize the number of redundancies.

95. In the case of dismissals on disciplinary grounds, the conditions governing the worker's eligibility for severance pay are set out in the company's internal regulations.

(b) Equality of treatment in the exercise of a remunerated activity

96. There is no procedural discrimination between national and foreign workers. The principle of equality of treatment is expressly established in article 16 of Act No. 81-10 of 11 July 1981, which states that: "Foreign workers shall receive the salary linked to the post that Algerian workers with equivalent qualifications might expect to receive, plus, in some cases, an increment payable under certain conditions laid down by decree. Salaries are payable in the national territory at the end of each period." Articles 2, 3, 4, 5, 6, 10, 15 and 21 of the law governing the conditions of employment of foreign workers are also important provisions in this area.

Reply to question 23

97. Trade union freedoms are protected under the Constitution. They are also covered in labour legislation, in particular in Act No. 90-14 of 2 June 1990 on the exercise of the right to join a trade union, which states that foreign workers, in the same manner as Algerian workers, may join trade unions to protect and represent the social and professional interests of their group in dealings with management. Free and voluntary membership of a trade union of their choice is open to all workers without discrimination.

98. There has been no known case of any involvement by a foreign worker in trade union activities in Algeria. This does not mean, however, that the rights of employed foreign workers are not protected and that they cannot call on union representatives to help them defend their rights against an employer.

Reply to question 24

99. See reply to question 12 (article 15).

Reply to question 25 (article 47)

100. Migrant workers may transfer part of their salary subject to the terms set out in Central Bank Instruction No. 02 of 2 May 1998, adopted in implementation of articles 37 and 42 of Regulation No. 95-07 of 23 December 1995 on exchange control.

101. Notwithstanding the provisions on double taxation contained in bilateral agreements signed by Algeria, migrant workers' salaries are not subject to any taxes, duties, charges or contributions of any description higher or more onerous than those imposed on nationals in similar circumstances. The employment regulations issued by the Social Development Agency include provisions on a number of issues related to the employment of foreign nationals.

102. Algeria has signed a number of double taxation agreements to avoid penalizing foreign enterprises and workers, irrespective of their status. Moreover, Algerian tax law does not distinguish between nationals and foreign workers. The same taxation system applies to both.

D. Part VI of the Convention

Reply to question 26 (article 64)

103. Algeria ensures the protection of the rights of migrant workers in accordance with national law and international labour standards.

104. To this end, it has concluded two bilateral agreements:

- With France (Evian agreements of 18 March 1962 and bilateral agreement of 27 December 1968 on the movement, employment and stay of Algerian nationals in French territory);
- With Tunisia (Algerian-Tunisian agreement of 1963, ratified through decree No. 63-451 of 14 November 1963).

105. Article 19 of Decree No. 82-510 of 25 December 1982 establishing procedures for the issuance of work permits and temporary work authorizations applies to French and Tunisian citizens.

106. With the exception of Tunisian and French workers, who do not require a work visa or temporary work authorization, foreign workers must follow the procedures for the issuance of a work permit. French and Tunisian workers are not required to have work permit or temporary work authorization, and the criterion for the level of professional qualification required to exercise a salaried activity in Algeria does not apply to them. They are treated in the same way as Algerian workers in the same job or with the same qualifications, in accordance with legislative and regulatory provisions and collective labour agreements.

107. However, prior to recruiting a French or Tunisian worker, employers must make a declaration of employment to the competent *wilaya* employment office. A certificate of declaration of the employment of a foreign worker who does not require a work permit is issued to French or Tunisian workers within eight days of the declaration being made.

108. Algeria has not yet concluded a bilateral agreement with Saudi Arabia concerning the exchange of workers or domestic workers.

Replies to questions 27 and 28 (article 68)

109. The State party has not registered any complaints from citizens abroad claiming to have been the victims of trafficking. If such a case were to arise, the State party would provide the citizen with consular protection and legal advice. At the victim's request, he or she would be repatriated at the expense of the State if he or she did not have the necessary resources.

110. Articles 19, 20, 28, 29, 41 and 49 of Act No. 08-11 mentioned earlier establish financial and criminal penalties for employers and any employee of a company that use foreign labour illegally.

111. To support the prevention and elimination of illegal immigration and criminal smuggling networks, the Act provides for the following measures:

- The possibility, on the prerogative of the Minister of the Interior, of refusing a foreign national entry to the country for any reason relating to State order and security or if the fundamental, diplomatic interests of the State are at risk;
- The possibility of using biometric visas (containing fingerprints and photographs), taking foreign nationals' fingerprints and photographs at border crossing points and processing all such information electronically;
- Measures to address security needs linked to the cross-border movement of foreign nationals;
- The possibility of withdrawing a foreign national's residence permit at any time, if the holder no longer meets the conditions of issuance or has been implicated in activities detrimental to public order or State interests;
- The strengthening of mechanisms for the expulsion of foreign nationals in an irregular situation in Algeria by decree of the Minister of the Interior;
- The adoption of a new measure that entails escorting foreign nationals who enter Algeria illegally back to the border by decree of the local *wali*;
- The possibility of establishing officially regulated holding centres to provide temporary housing for illegal immigrants until they are escorted back to the border or returned to their country of origin.

112. A harsh punitive system entailing penalties that range from 2 to 20 years' imprisonment in addition to fines is in place to combat criminal networks that smuggle and traffic migrants.